

Remarks

Claims 1-50 are now pending in this application. The Office Action rejected claims 19-27 and 41-50 under 35 U.S.C. §112 as being indefinite for failing to point out and distinctly claim the subject matter which Applicants regard as the invention. In addition, the Office Action rejected claims 1-18, 28-31, and 33-40 under 35 U.S.C. §103(a) as being unpatentable over Holmes et al., U.S. Patent No. 6,490,769 (Holmes).

Although the Office Action either rejected or objected to claims 19-27 and 41-50 for various formalities, Applicants appreciate Examiner's acknowledging the allowable subject matter in each of these claims. To the extent they are maintained, Applicants respectfully traverse all of the rejections and objections, as the cited references do not disclose or suggest the invention as recited in any of claims 1-50. Applicants have nonetheless made amendments to claims 1, 13, 19, 28, and 41 in deference to the Examiner. Applicants respectfully submit that no new subject matter is being added by the above amendments, as the amendments are fully supported in the specification, drawings and claims as originally filed.

Applicants wish to thank the Examiner for the courtesy extended in the telephonic interview between the Examiner and Applicants' representative on July 30, 2004. In the interview, proposed amendments to the claims to address the art-based rejections were discussed.

To this end, independent claims 1 and 28 have been amended to recite an audio frame that is encoded at the same audio sampling rate at which it is received. That is, the audio sampling rate is not adjusted prior to encoding. This claimed feature is

distinguishable from the apparatus disclosed in Holmes, which adjusts the audio sampling rate.

More particularly, the apparatus in Holmes et al. "adjusts" the audio sampling rate to the video frame rate (column 5, line 22). A portion of this rate adjustment is described in the first paragraph of column 5. The adjustment involves at least adjusting the sampling rate to 256 times the incoming rate and dividing that rate by a countdown divider 148 to derive an audio sampling clock rate based on a video-rate clock. As described also at column 8, lines 10-15, the rate of the audio data is adjusted as dictated by the sampling clock 150, and the sampling clock 150 is adjusted according to the video clock 140. Such rate adjustment of the prior art is incidentally characterized on page 5, lines 13 -15 within the background section of Applicants' specification.

Turning to claim 1, Applicants' invention does not adjust the audio sampling rate of the audio data, and consequently, avoids the extensive programming and processing delays of the prior art. As shown in Fig. 3, the sampling rate of the audio frames is not adjusted. Rather the audio packet comprised of the frames is buffered for "n" samples, then encoded at its original sampling rate. The absence of audio sampling rate adjustment is further evidenced by a feature of Applicants' invention that allows the sampling rate setting of the encoder to be preset at the same bit rate of the incoming audio packet, further streamlining processing.

Because none of the prior art teaches or suggests storing an audio frame having a sampling rate; setting encoding parameters prior to receiving a start command; receiving the start command and encoding the audio frame in response to a first video

synchronization signal; and encoding the audio frame at the audio sampling rate upon receiving the video synchronization signal, claim 1 is novel and non-obvious.

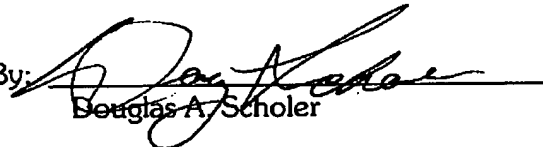
Reconsideration and allowance of claim 1, along with claims 2-18 which depend therefrom, are therefore respectfully requested.

Claim 28 is also novel and non-obvious for substantially the same reasons as stated above in connection with claim 1, and its reconsideration and allowance, along with claims 29-40 which depend therefrom, are respectfully requested.

Applicants therefore submit that all pending claims are patentable over the prior art of record, and reconsideration and allowance of all pending claims are accordingly requested. If the Examiner has any questions regarding the foregoing, or which might otherwise further this case onto allowance, the Examiner may contact the undersigned at (513) 241-2324. Moreover, if there are any charges or credits that are necessary to complete this communication, please apply them to deposit account 23-3000.

Respectfully submitted,

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